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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

EDUARDO ALFONSO VIERA-CHIRINOS,

a/k/a "Rojo";

Defendant.

CASE NO.: CR 19-0367-01 CRB

~~PROPOSED~~ ORDER DENYING MOTION FOR
RELEASE AND DETAINING DEFENDANT
PRIOR TO TRIAL

On March 17, 2021, this Court held a hearing on Defendant Eduardo Viera-Chirinos's motion for pretrial release. *See* Dkt. 352. For the reasons stated on the record and summarized below, the Court denies the motion.

Previously, in April 2020, the Court ordered Viera-Chirinos detained as a risk of flight. *See* Dkt. 243. This month he moved for reconsideration citing changed circumstances. Dkt. 352. Specifically, Defendant argued that the recent return of his young children to the Bay Area from Honduras mitigated his flight risk as the family anticipated residing locally going forward. Viera-Chirinos indicated that he was willing to surrender his own passport as well as the passports of his children. He noted that he had secured potential employment that would allow him to support himself and his children. He also argued

~~PROPOSED~~ ORDER DENYING MOT. FOR RELEASE
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FILED

Mar 18 2021

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

1 that a third-party surety and custodian who was willing to sign on to an unsecured bond would ensure
2 his appearance at future hearings. *See generally* Dkt. 352. The government opposed the motion, stating
3 that if released, the defendant could abscond with his children, even if they surrendered their passports.
4 Dkt. 355. The government contended that the proposed surety was unreliable because she previously
5 co-signed a bond for a different federal defendant who ultimately absconded. *Id.* Finally, the
6 government maintained its position that the defendant is a danger to the community. *Id.*

7 Because the defendant is charged with an offense under the Controlled Substances Act that
8 carries a statutory maximum greater than 10 years in custody, subject to rebuttal, the law presumes that
9 no condition or combination of conditions will reasonably assure the defendant's appearance and the
10 safety of the community. 18 U.S.C. § 3142(e)(3)(A). In determining whether there are conditions of
11 release that will reasonably assure the appearance of the defendant, the Court considers the following
12 four factors: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence; (3)
13 the defendant's character, physical and mental condition, family and community ties, past conduct,
14 history relating to drug or alcohol abuse, and criminal history, as well as whether the crime was
15 committed while the defendant was on probation or parole; and (4) the nature and seriousness of the
16 danger to any person or to the community that would be posed by the defendant's release. 18 U.S.C. §
17 3142(g).

18 Having reviewed the parties' memoranda and following argument on March 17, 2021, the Court
19 denies Viera-Chirinos's motion finding that he remains a risk of flight. Viera-Chirinos has no
20 meaningful ties to this district and significant ties to Honduras. The defendant's parents who recently
21 brought his children back to the United States must return to Honduras once their visitor visas expire.
22 The children themselves, while they are U.S. citizens, also have no meaningful ties to this district and
23 had been living in Honduras. Considering the penalties faced by the defendant and the lack of local ties,
24 the Court is not persuaded that the defendant and his children will remain in the Bay Area. The risk of
25 flight cannot be mitigated by any conditions.

26 Given the nature of the crimes as alleged, as well as the history and characteristics of the
27 defendant, the Court determines that, based on the current record, there is no condition or combination
28

1 of conditions of release that can reasonably assure the defendant's appearance as required. Accordingly,
2 pursuant to 18 U.S.C. § 3142(i), IT IS HEREBY ORDERED THAT:

3 (1) Defendant is committed to the custody of the Attorney General for confinement in a
4 corrections facility;

5 (2) Defendant be afforded reasonable opportunity for private consultation with his counsel; and

6 (3) on order of a court of the United States or on request of an attorney for the government, the
7 person in charge of the corrections facility in which defendant is confined shall deliver defendant to an
8 authorized Deputy United States Marshal for the purpose of any appearance in connection with a court
9 proceeding.

10 **IT IS SO ORDERED.**

11 March 18, 2021


HON. THOMAS S. HIXSON
United States Magistrate Judge